

CHANGES WITHOUT REGULATORY EFFECT UNDER CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Title 18. Public Revenues

Rule 263, *Roll Corrections*

Rule 462.020, *Change in Ownership – Tenancies in Common*

Rule 462.060, *Change in Ownership – Life Estates and Estates for Years*

Rule 462.160, *Change in Ownership – Trusts*

Rule 462.180, *Change in Ownership – Legal Entities*

Rule 462.220, *Change in Ownership – Interspousal Transfers*

Rule 462.240, *The Following Transfers Do Not Constitute a Change in Ownership*

A. Factual Basis

1. Grammatical and Formatting Changes to Rule 263

Chapter 2 (commencing with section 101) of division 1 of title 18 of the California Code of Regulations contains property tax rules the State Board of Equalization (BOE) has adopted in accordance with Government Code section 15606 to govern county assessors when assessing property under division 1, *Property Taxation*, (commencing with section 50) of the Revenue and Taxation Code (RTC). The BOE hereby proposes to make grammatical and formatting changes to the citations to the RTC in subdivisions (b), (c), (d), and (g) of California Code of Regulations, title 18, section (Rule) 263, *Roll Corrections*, to make the citations to the RTC consistent throughout Rule 263 and to generally make the citations to the RTC consistent with the format prescribed by the California Style Manual. The BOE also proposes to add an inadvertently omitted period to the end of Rule 263, subdivision (h)(2). The BOE has determined that the proposed changes to Rule 263 are appropriate for processing under California Code of Regulations, title 1, section (Rule) 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

2. Changes to Make Rules 462.020, 462.060, 462.160, 462.180, and 462.220 Consistent with the Enactment of RTC Section 62, Subdivision (p)

Article 4 (commencing with section 460) of chapter 4 of division 1 of title 18 of the California Code of Regulations contains property tax rules the BOE has adopted in accordance with Government Code section 15606 to implement, interpret, and make specific the provisions for determining whether real property has undergone a change in ownership, under chapter 2 (commencing with section 60) of part 0.5 of division 1 of the RTC, for property tax purposes. The BOE hereby proposes to change Rules 462.020, *Change in Ownership – Tenancies in Common*; 462.060, *Change in Ownership – Life Estates and Estates for Years*; 462.160, *Change in Ownership – Trusts*; 462.180, *Change in Ownership – Legal Entities*; and 462.220, *Change in Ownership – Interspousal Transfers*, which all refer to interspousal transfers, the exclusion from change in ownership for interspousal transfers, pursuant to RTC section 63, or both, to make the

rules consistent with the enactment of RTC section 62, subdivision (p), by Senate Bill No. (SB) 565 (Stats. 2005, ch. 416, § 2), which provides that change in ownership does not include any transfers between registered domestic partners.

As relevant here, RTC section 62, subdivision (p)(1), expressly provides that:

Commencing on January 1, 2000, [change in ownership shall not include:] any transfer between registered domestic partners, as defined in Section 297 of the Family Code, including, but not limited to:

- (A) Transfers to a trustee for the beneficial use of a registered domestic partner, or the surviving registered domestic partner of a deceased transferor, or by a trustee of such a trust to the registered domestic partner of the trustor.
- (B) Transfers that take effect upon the death of a registered domestic partner.
- (C) Transfers to a registered domestic partner or former registered domestic partner in connection with a property settlement agreement or decree of dissolution of a registered domestic partnership or legal separation.
- (D) The creation, transfer, or termination, solely between registered domestic partners, of any coowner's interest.
- (E) The distribution of a legal entity's property to a registered domestic partner or former registered domestic partner in exchange for the interest of the registered domestic partner in the legal entity in connection with a property settlement agreement or a decree of dissolution of a registered domestic partnership or legal separation.

And, the excluded transfers between registered domestic partners, pursuant to RTC section 62, subdivision (p), are identical to the interspousal transfers that are excluded from change in ownership, pursuant to RTC section 63. This is because RTC section 63 expressly provides that:

[A] change of ownership shall not include any interspousal transfer, including, but not limited to:

- (a) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor,
- (b) Transfers which take effect upon the death of a spouse,
- (c) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation, or
- (d) The creation, transfer, or termination, solely between spouses, of any coowner's interest.
- (e) The distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of such spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.

Therefore, to make Rules 462.020, 462.060, 462.160, 462.180, and 462.220 consistent with the enactment of RTC section 62, subdivision (p), by SB 565, the BOE proposes to:

- Change Rule 462.020, subdivision (b)(3), to clarify that a transfer of a tenancy in common interest in real property is not a change in ownership if the transfer is one to which the interspousal exclusion, "pursuant to Revenue and Taxation Code section 63,

or the registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 63, subdivision (p)” applies;

- Change the first sentences in Rule 462.060, subdivisions (a) and (b), to clarify that the creation of a life estate or an estate for years for a term of 35 years or more in real property is not a change in ownership if the instrument creating the estate reserves such estate in the transferor’s spouse, “pursuant to Revenue and Taxation Code section 63, or registered domestic partner, pursuant to Revenue and Taxation Code section 62, subdivision (p)”;
- Change the second and third sentences in Rule 462.060, subdivisions (a) and (b), so that the sentences, which refer to a transferor’s “spouse,” also refer to a transferor’s “registered domestic partner”;
- Change the titles of Rule 462.160, subdivisions (b)(3) and (d)(4), which refer to “Interspousal Trusts,” so that the titles also refer to “Registered Domestic Partner” trusts;
- Change the first sentences in Rule 462.160, subdivisions (b)(3) and (d)(4), to clarify that the transfer of real property into a trust or the termination of a trust holding real property is not a change in ownership if the transfer into the trust or the termination of the trust results in a transfer to which the interspousal exclusion “pursuant to Revenue and Taxation Code section 63, or registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 63, subdivision (p)” applies;
- Change the second sentence in Rule 462.160, subdivision (b)(3), so that the sentence, which refers to a trustor-transferor’s “spouse,” also refers to a trustor-transferor’s “registered domestic partner”;
- Change the second paragraph in Rule 462.180, subdivision (d)(2), to clarify that, for purposes of subdivision (d)(2), interspousal transfers excluded under RTC section 63 and “transfers between registered domestic partners excluded under Revenue and Taxation Code section 62, subdivision (p)” shall not be cumulated or counted to determine a change in ownership;
- Change the title of Rule 462.220, which refers to “Interspousal Transfers,” so that the title also refers to “Registered Domestic Partner” transfers;
- Change the first sentence in Rule 462.220 to clarify that change in ownership does not include any interspousal transfer “pursuant to Revenue and Taxation Code section 63,” and add corresponding language explaining that change in ownership does not include “any transfer between registered domestic partners, pursuant to Revenue and Taxation Code section 62, subdivision (p)”;
- Change Rule 462.220, subdivisions (b), (d), (e), (f), and (h), which all contain references to “spouse,” so that each reference to “spouse” is accompanied by a corresponding reference to “registered domestic partner”;
- Change Rule 462.220, subdivisions (f) and (h), which refer to transfers to a spouse or former spouse in connection with a decree of dissolution of marriage, so that they also contain corresponding references to transfers to a “registered domestic partner” or former “registered domestic partner” in connection with a decree of dissolution of a “registered domestic partnership”; and
- Change Rule 462.220, subdivision (g), which refers to “spouses,” so that the subdivision also contains a corresponding reference to “registered domestic partners.”

The BOE has determined that the proposed changes to Rules 462.020, 462.060, 462.160, 462.180, and 462.220 (discussed above) are appropriate for processing under Rule 100 because the changes make the rules consistent with the enactment of RTC section 62, subdivision (p), by

SB 565, they are changes without regulatory effect, and they do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

3. Changes to Make Rule 462.020 Consistent with the Enactment of RTC Section 62.3

In addition, RTC section 62.3 was enacted by Assembly Bill No. (AB) 1700 (Stats. 2012, ch. 781, § 1) to provide an exclusion from change in ownership for certain transfers between cotenants that occur upon death, which applies to transfers occurring on or after January 1, 2013. Rule 462.020 addresses transfers of tenancy in common interests. Therefore, the BOE proposes to add a new subdivision (b)(5) to Rule 462.020 to make the rule consistent with RTC section 62.3 and provide additional notice that a transfer of tenancy in common interests is not a change in ownership if “The Transfer is one to which the cotenancy exclusion, pursuant to Revenue and Taxation Code section 62.3, applies.” The BOE has determined that this proposed change to Rule 462.020 is appropriate for processing under Rule 100 because the change makes the rule consistent with the enactment of RTC section 62.3 by AB 1700, it is a change without regulatory effect, and it does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

4. Changes to Rule 462.240 to Make the Rule Consistent with the Enactment of RTC Sections 62, subdivision (p), and 62.5

Further, Rule 462.240, *The Following Transfers Do Not Constitute a Change in Ownership*, addresses transfers that are not considered changes in ownership. Effective September 30, 2012, AB 2046 (Stats. 2012, ch. 817, § 1) added section 62.5 to the RTC to create a change in ownership exclusion for the transfer of a floating home marina to an entity formed by the tenants of the marina. Therefore, the BOE proposes to add language to Rule 462.240, subdivision (k), to make the rule consistent with the enactment of RTC section 62.5, by AB 2046, by providing that change in ownership does not include “Any transfer of a floating home marina pursuant to Revenue and Taxation Code section 62.5,” and adding RTC section 62.5 to Rule 462.240’s reference note.

Furthermore, the BOE added subdivision (k) to Rule 462.240 in 2003 to provide that change in ownership does not include “Any transfer of separate property inherited by a surviving domestic partner, as defined in subdivision (b) of section 37 of the Probate Code, by intestate succession upon the death of a registered domestic partner.” However, any transfer of separate property to a surviving registered domestic partner by intestate succession, on or after January 1, 2000, that would be excluded from change in ownership pursuant to the current provisions of Rule 462.240, subdivision (k), would now be excluded from change in ownership under the much broader provisions of RTC section 62, subdivision (p) (enacted in 2005), which apply to “any transfer between registered domestic partners” and specifically apply to “[t]ransfers that take effect upon the death of a registered domestic partner.” Therefore, the BOE also proposes to add a new subdivision (l) to Rule 462.240 to incorporate and provide additional notice regarding the provisions of RTC section 62, subdivision (p), enacted by SB 565 (discussed above), by broadly providing that change in ownership does not include “Any transfer of real property between registered domestic partners, pursuant to Revenue and Taxation Code section 62, subdivision (p).” And, the BOE proposes to delete the current, narrow provisions of Rule 462.240, subdivision (k), because they have been superseded by the enactment of RTC section 62, subdivision (p).

The BOE has determined that these changes to Rule 462.240 are appropriate for processing under Rule 100 because the changes make the rule consistent with the enactment of RTC section 62, subdivision (p), by SB 565, and the enactment of RTC section 62.5 by AB 2046, they are changes without regulatory effect, and the changes do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

5. Additional Grammatical and Formatting Changes to Rules 462.020, 462.160, 462.180, 462.220, and 462.240

Finally, the BOE hereby proposes to make the following additional grammatical and formatting changes to Rules 462.020, 462.160, 462.180, 462.220, and 462.240:

- Replace the word “co-tenancy” with the word “cotenancy” in Rule 462.020, subdivision (b)(1)(B) and (C).
- Replace the “%” symbols with the word “percent” in Rules 462.020, Example 1, 462.160, Example 1, and 462.180, Examples 1, 4, and 7.
- Replace the word “law” with a reference to the law being referred to, RTC section 63.1, in Rules 462.020, subdivision (b)(4), and 462.160, subdivisions (b)(4) and (d)(5).
- Make the citations to the RTC and Rules consistent throughout Rules 462.160, 462.180, 462.220, 462.240, and generally make the citations in these regulations consistent with the format prescribed in the California Style Manual.
- Correct the placement of quotations marks around “A Trust” and “B Trust” in Rule 462.160, Example 2, around “original co-owners” in Rule 462.180, Example 5, and around “A Trust” in Rule 462.220, Example 3.
- Replace the word “coowners” with the word “co-owners” in Rule 462.160, Example 4, and Rule 462.220, subdivision (c) and Example 2.
- Add the words “of this subdivision” to the end of Rule 462.160, subdivision (b)(6) and add the words “of this rule” to Rule 462.180, subdivisions (b)(2), (d), and (e)(1) and (2).
- Correct a typographical error by changing the word “owed” to the word “owned” in Rule 462.180, Example 1.
- Insert the word “legal” before the word “entity” in Rule 462.220, subdivision (h).

The BOE has determined that the foregoing grammatical and formatting changes are appropriate for processing under Rule 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

B. Proposed Changes

The following Rule 100 changes are proposed to Rules 263, 462.020, 462.060, 462.160, 462.180, 462.220, and 462.240:

TEXT OF PROPOSED CHANGES

Rule 263. Roll Corrections.

(a) . . . (unchanged).

(b) Any error or omission involving the exercise of value judgment that arises solely from a failure to reflect a decline in the taxable value of real property, floating homes subject to taxation pursuant to Revenue and Taxation Code section 229, and manufactured homes subject to taxation under ~~P~~part 13 (commencing with section 5800) of ~~D~~division 1 of the Revenue and Taxation Code, as required by paragraph (2) of subdivision (a) of Revenue and Taxation Code section 51, shall be corrected within one year after the making of the assessment that is being corrected.

(c) Any incorrect entry on the roll resulting from a defect of description or clerical error, as determined by the assessor upon audit, made by the assessee in the property statement or in other information or records which causes the assessor to assess taxable tangible property which was not subject to assessment or to assess taxable tangible property at a substantially higher value may be corrected under this article. The correction shall be made after the roll is delivered to the auditor within the time period for making escape assessments as provided in Revenue and Taxation Code sections 532 and 532.1. The change to be made on the roll shall be certified to the auditor by the assessor.

(d) If a correction will increase the amount of unpaid taxes, the assessor shall notify the assessee of the procedure for obtaining review by the county board under Revenue and Taxation Code section 1605 and the procedure for applying for cancellation under Revenue and Taxation Code section 4986.

(e) . . . (unchanged).

(f) . . . (unchanged).

(g) The provisions of this rule do not apply to escape assessments caused by the assessee's failure to report the information required by ~~A~~article 2 (commencing with section 441) of ~~E~~chapter 3 of ~~P~~part 2 of ~~D~~division 1 of the Revenue and Taxation Code, and roll corrections are not a prerequisite for escape assessments or base year value corrections.

(h) . . . (unchanged):

(1) . . . (unchanged).

(2) Enter the date and nature of the correction with reference to the property for which the correction is being made.

(i) . . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged).

Note: Authority cited: Section 15606, Government Code. Reference: Sections 4831, 4831.5, 4834, 4835, 4836, 4838 and 4840, Revenue and Taxation Code.

Rule 462.020. Change in Ownership – Tenancies in Common.

(a) General Rule. . . . (unchanged).

(b) Exceptions. The following transfers do not constitute a change in ownership:

(1) The transfer is between or among co-owners and results in a change in the method of holding title but does not result in a change in the proportional interests of the co-owners, such as:

(A) . . . (unchanged),

(B) a transfer from a ~~co-tenancy~~cotenancy to a joint tenancy, or

(C) a transfer from a ~~co-tenancy~~cotenancy to a legal entity which results solely in a change in the method of holding title and in which the proportional ownership interests in the property remain the same after the transfer. (Such transferees shall be considered to be the “original co-owners” of the property for purposes of determining whether a change in ownership has occurred upon the subsequent transfers of the ownership interests in the property.)

Example 1: A and B own a parcel of real property as tenants in common each owning a 50% percent interest. They transfer the property to a newly formed corporation each receiving 50% percent of the stock. Such a transfer would not be regarded as a change in ownership.

(2) . . . (unchanged).

Example 2: . . . (unchanged).

Example 3: . . . (unchanged).

(3) The transfer is one to which the interspousal exclusion, pursuant to Revenue and Taxation Code section 63, or the registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 62, subdivision (p), applies.

(4) The transfer is one to which the parent-child or grandparent-grandchild exclusion applies, and for which a timely claim has been filed as required by ~~law~~Revenue and Taxation Code section 63.1.

(5) The transfer is one to which the cotenancy exclusion, pursuant to Revenue and Taxation Code section 62.3, applies.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 60, 61, 62, 63, 63.1, 65, 65.1 and 67, Revenue and Taxation Code.

Rule 462.060. Change in Ownership – Life Estates and Estates for Years.

(a) Life estates. The creation of a life estate in real property is a change in ownership at the time of transfer unless the instrument creating the life estate reserves such estate in the transferor or the transferor's spouse, pursuant to Revenue and Taxation Code section 63, or registered domestic partner, pursuant to Revenue and Taxation Code section 62, subdivision (p). However, the subsequent transfer of such a life estate by the transferor or the transferor's spouse or registered domestic partner to a third party is a change in ownership. Upon termination of such a reserved life estate, the vesting of a right of possession or enjoyment of a remainderman (other than the transferor or the transferor's spouse or registered domestic partner) is a change in ownership.

(b) Estate for years. The creation of an estate for years for a term of 35 years or more in real property is a change in ownership at the time of transfer unless the instrument creating the estate for years reserves such estate in the transferor or the transferor's spouse, pursuant to Revenue and Taxation Code section 63, or registered domestic partner, pursuant to Revenue and Taxation Code section 62, subdivision (p). However, the subsequent transfer of such an estate for years by the transferor or the transferor's spouse or registered domestic partner to a third party is a change in ownership. Upon the termination of a reserved estate for years for any term, the vesting of the right to possession or enjoyment of a remainderman (other than the transferor or the transferor's spouse or registered domestic partner) is a change in ownership. The creation or transfer of an estate for years for less than 35 years is not a change in ownership.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 60, 61, 62, 63 and 67, Revenue and Taxation Code.

Rule 462.160. Change in Ownership – Trusts.

(a) Creation. General Rule. . . . (unchanged).

(b) Exceptions. The following transfers do not constitute changes in ownership:

(1) Irrevocable Trusts.

(A) Trustor-Transferor Beneficiary Trusts. The transfer of real property by the trustor to a trust in which the trustor-transferor is the sole present beneficiary of the trust. However, a change in ownership of trust property does occur to the extent that persons other than the trustor-transferor are or become present beneficiaries of the trust unless otherwise excluded from change in ownership.

Example 1: M transfers income-producing real property to revocable living Trust A, in which M is the sole present beneficiary. Trust A provides that upon M's death, Trust A becomes irrevocable, M's brother B becomes a present beneficiary, and income from the trust property is to be distributed to B for his lifetime. Upon M's death, 100% percent of the property in Trust A, representing B's present beneficial interest, undergoes a change in ownership.

Where a trustee of an irrevocable trust has total discretion ("sprinkle power") to distribute trust income or property to a number of potential beneficiaries, the property is subject to change in ownership, because the trustee could potentially distribute it to a non-

excludable beneficiary, unless all of the potential beneficiaries have an available exclusion from change in ownership.

Example 2: H and W transfer real property interests to the HW Revocable Trust. No change in ownership. HW Trust provides that upon the death of the first spouse the assets of the deceased spouse shall be distributed to “A Trust₂”, and the assets of the surviving spouse shall be distributed to “B Trust₂”, of which surviving spouse is the sole present beneficiary. H dies and under the terms of A Trust, W has a “sprinkle” power for the benefit of herself, her two children and her nephew. When H dies, A Trust becomes irrevocable. There is a change in ownership with respect to the interests transferred to the A Trust because the sprinkle power may be exercised so as to omit the spouse and the children as present beneficiaries for whom exclusions from change in ownership may apply, and there are no exclusions applicable to the nephew. However, if the sprinkle power could be exercised only for the benefit of W and her children for whom exclusions are available, the interspousal exclusion and the parent/child exclusion would exclude the interests transferred from change in ownership, provided that all qualifying requirements for those exclusions are met.

Example 3: Same as Example 2 above, except that “A Trust” is without any sprinkle power. When H dies, A Trust becomes irrevocable. Since A Trust holds the assets for the benefit of W, the two children, and the nephew in equal shares, with any of W’s share remaining at her death to be distributed to the two children and the nephew in equal shares, there is a change in ownership only to the extent of the interests transferred to the nephew, providing that the parent/child exclusion of Revenue and Taxation Code §section 63.1 and the interspousal exclusion of Revenue and Taxation Code §section 63 apply to the interests transferred to the two children and to W respectively. Upon the death of W, there is a change in ownership to the extent of the interests transferred to the nephew, although the parent/child exclusion of Revenue and Taxation Code §section 63.1 may exclude from change in ownership the interests transferred to the two children. If A Trust had included a sprinkle power, instead of specifying the beneficiaries of the trust income and principal, then as in Example 2, none of the exclusions would apply.

(B) 12 Year Trustor Reversion Trusts. . . . (unchanged).

(C) Irrevocable Trusts Holding Interests in Legal Entities. The transfer of an ownership interest in a legal entity holding an interest in real property by the trustor into a trust in which the trustor-transferor is the sole present beneficiary or to a trust in which the trustor-transferor retains the reversion as defined in subdivision (b)(1)(B) of this rule. However, a change in ownership of the real property held by the legal entity does occur if Revenue and Taxation Code section 61, subdivision (i), 64, subdivision (c), or 64, subdivision (d) applies because the change in ownership laws governing interests in legal entities are applicable regardless of whether such interests are held by a trust.

Example 4: Husband and Wife, partners in HW Partnership who are not original ~~co-owners~~co-owners, transfer 70 percent of their partnership interests to HW Irrevocable Trust and name their four children as the present beneficiaries of the trust with equal shares. Husband and Wife do not retain the reversion. Under Revenue and Taxation Code section 64, subdivision (a) the transfer of the partnership interests to HW Irrevocable

Trust is excluded from change in ownership because no person or entity obtains a majority ownership interest in the HW Partnership.

(2) Revocable Trusts. . . . (unchanged).

(3) Interspousal and Registered Domestic Partner Trusts. The transfer is one to which the interspousal exclusion, pursuant to Revenue and Taxation Code section 63, or registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 62, subdivision (p), applies. However, a change in ownership of trust property does occur to the extent that persons other than the trustor-transferor's spouse or registered domestic partner are or become present beneficiaries of the trust unless otherwise excluded from change in ownership.

(4) Parent-Child or Grandparent-Grandchild Trusts. The transfer is one to which the parent-child or grandparent-grandchild exclusion applies, and for which a timely claim has been made as required by ~~law~~Revenue and Taxation Code section 63.1. However, a change in ownership of trust property does occur to the extent that persons for whom the parent-child or grandparent-grandchild exclusion is not applicable are or become present beneficiaries of the trust unless otherwise excluded from change in ownership.

(5) Proportional Interests. . . . (unchanged).

(6) Other Trusts. The transfer is from one trust to another and meets the requirements of (1), (2), (3), (4), or (5) of this subdivision.

(c) Termination. General Rule. . . . (unchanged).

(d) Exceptions. The following transfers do not constitute changes in ownership:

(1) Prior Change in Ownership. . . . (unchanged).

Example 5: . . . (unchanged).

(2) Revocable Trusts. . . . (unchanged).

(3) Trustor Reversion Trusts. . . . (unchanged).

(4) Interspousal and Registered Domestic Partner Trusts. Termination results in a transfer to which the interspousal exclusion, pursuant to Revenue and Taxation Code section 63, or the registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 62, subdivision (p), applies.

(5) Parent-Child or Grandparent-Grandchild Trusts. Termination results in a transfer to which the parent-child or grandparent-grandchild exclusion applies, and for which a timely claim has been filed as required by ~~law~~Revenue and Taxation Code section 63.1.

(6) Proportional Interests. . . . (unchanged).

(7) Other Trusts. . . . (unchanged).

(e) For purposes of this rule, the term “trust” does not include a Massachusetts business trust or similar trust, which is taxable as a legal entity and managed for profit for the holders of transferable certificates which, like stock shares in a corporation, entitle the holders to share in the income of the property. For rules applicable to Massachusetts business trusts or similar trusts, see Revenue and Taxation Code Section 64 ~~of the Revenue and Taxation Code~~ and Rule 462.180, which address legal entities.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 60, 61, 62, 63, 63.1, 63.1 note and 64, Revenue and Taxation Code.

Rule 462.180. Change in Ownership – Legal Entities.

(a) Transfers of Real Property to and by Legal Entities. General Rule. The transfer of any interest in real property to a corporation, partnership, limited liability company, or other legal entity is a change in ownership of the real property interest transferred. For purposes of this rule, “real property” or “interests in real property” includes real property interests and fractional interests thereof, the transfer of which constitute a change in ownership under Revenue and Taxation Code Sections 60 and the following applicable sections of the Revenue and Taxation Code, and under the applicable change in ownership provisions of the Property Tax Rules.

(b) Exceptions. . . . (unchanged):

(1) Affiliated Corporation Transfers. . . . (unchanged):

(A) . . . (unchanged), and

(B) . . . (unchanged).

SIMPLE EXAMPLE . . . (unchanged).

Example 1: Any transfer by C (wholly owned by A and B) to B (wholly owned by A and P) would not be a change in ownership because of those relationships and because P owns 100% percent of A.

[Last sentence in subdivision (b)(1)] . . . (unchanged).

(2) Proportional Transfers of Real Property. Transfers of real property between separate legal entities or by an individual to a legal entity (or vice versa), which result solely in a change in the method of holding title and in which the proportional ownership interests in each and every piece of real property transferred remain the same after the transfer. (The holders of the ownership interests in the transferee legal entity, whether such interests are represented by stock, partnership interests, or other types of ownership interest, shall be defined as “original co-owners” for purposes of determining whether a change in ownership has occurred upon the subsequent transfer of the ownership interests in the legal entity.) This subdivision shall not apply to a transfer of real property which is also excluded from change in ownership pursuant to subdivision (b)(1) of this rule (transfers between or among affiliated corporations).

Examples of Transfers of Real Property in Legal Entities:

Example 2: . . . (unchanged).

Example 3: . . . (unchanged).

Example 4: Corporation X owns Blackacre and Whiteacre (both are of equal value). A & B each own ~~50% percent~~ of Corporation X's shares. X transfers Whiteacre to A and Blackacre to B. Change in ownership of ~~100% percent~~ of both Blackacre and Whiteacre. However, if Corporation X transfers Whiteacre and Blackacre to both A and B as joint tenants or as equal tenants in common, there is no change in ownership.

Example 5: A transfer of real property from Corporation X to its sole shareholder A. No change in ownership, even if A is an "original co-owner," because interests in real property, and not ownership interests in a legal entity, are being transferred.

(c) Transfers of ownership interests in legal entities. General Rule. The purchase or transfer of corporate stock, partnership interests, or ownership interests in other legal entities is not a change in ownership of the real property of the legal entity, pursuant to Revenue and Taxation Code Section 64, subdivision (a) ~~of the Revenue and Taxation Code~~.

(d) Exceptions. The following transfers constitute changes in ownership, except as provided in subdivision (d)(4) of this rule which is an exclusion from change in ownership:

(1) Control. . . . (unchanged):

(A) obtains through a reorganization or any transfer, direct or indirect ownership or control of more than 50 percent of the voting stock in any corporation which is not a member of the same affiliated group of corporations as described in subdivision (b)(1) of this rule, or

(B) . . . (unchanged), or

(C) . . . (unchanged).

[Last sentence in subdivision (d)(1)] . . . (unchanged).

(2) Transfers of More than 50 Percent. When on or after March 1, 1975, real property is transferred to a partnership, corporation, limited liability company, or other legal entity and the transfer is excluded from change in ownership under Revenue and Taxation Code Section 62, subdivision (a)(2) ~~of the Revenue and Taxation Code~~, and the "original co-owners" subsequently transfer, in one or more transactions, cumulatively more than 50 percent of the total control or ownership interests, as defined in subdivision (d)(1) of this rule, in that partnership, corporation, limited liability company or legal entity, there is a change in ownership of only that property owned by the entity which was previously excluded under Section 62, subdivision (a)(2). However, when such transfer would also result in a change in control under Revenue and Taxation Code Section 64, subdivision (c) ~~of the Revenue and Taxation Code~~, then reappraisal of the property owned by the

corporation, partnership, limited liability company, or other legal entity shall be pursuant to Section 64, subdivision (c) rather than Section 64, subdivision (d).

For purposes of this subdivision ((d)(2)), interspousal transfers excluded under ~~Section 63 of the Revenue and Taxation Code~~ section 63, transfers between registered domestic partners excluded under Revenue and Taxation Code section 62, subdivision (p), transfers into qualifying trusts excluded under Revenue and Taxation Code Section 62, subdivision (d) ~~of the Revenue and Taxation Code~~, and proportional transfers excluded under Revenue and Taxation Code Section 62, subdivision (a)(2) ~~of the Revenue and Taxation Code~~ shall not be cumulated or counted to determine a change in ownership.

Examples of Transfers of Interests in Legal Entities:

Example 6: A and B each own 50 percent of the stock of Corporation X. Corporation X acquires Whiteacre from Corporation Y, an unaffiliated corporation in which neither A nor B has interests, and Whiteacre is reappraised upon acquisition. A transfers 30 percent of Corporation X's stock to C, and B later transfers 25 percent of Corporation X's stock to C. Upon C's acquisition of 55 percent of Corporation X's stock, there is a change in control of Corporation X under Revenue and Taxation Code Section 64, subdivision (c) and a reappraisal of Whiteacre.

Example 7: Spouses H and W acquire as community property 100% percent of the capital and profits interests in an LLC which owns Blackacre. Each of H and W is treated as acquiring 50 percent of the ownership interests as defined in subdivision (c) of this rule and Revenue and Taxation Code section 64, subdivision (a). Since the selling members of the LLC are not original co-owners (because they did not transfer the property to the LLC under the Revenue and Taxation Code Section 62, subdivision (a)(2) exclusion), no change in control of the LLC would occur under Revenue and Taxation Code section 64, subdivision (c) and no change in ownership of Blackacre under Revenue and Taxation Code section 64, subdivision (d).

Example 8: A and B, hold equal interests as tenants in common in Greenacre, a parcel of real property. A and B transfer Greenacre to Corporation Y and in exchange A and B each receive 50 percent of the corporate stock. No change in ownership pursuant to Revenue and Taxation Code sSection 62, subdivision (a)(2). Pursuant to Revenue and Taxation Code sSection 64, subdivision (d), A and B become original coowners. A transfers 30 percent of Corporation Y's stock to C (A's child), and B then transfers 25 percent of Corporation Y's stock to D (B's grandchild). Change in ownership of Greenacre upon B's transfer to D. Parent/child and grandparent/grandchild exclusions are not applicable to transfers of interests in legal entities. However, if the same transfers were made by A and B to their respective spouses, no change in ownership pursuant to Revenue and Taxation Code sSection 63 and Rule 462.220.

(3) Cooperative Housing Corporation. When the stock transferred in a cooperative housing corporation ("stock cooperative" as defined in subdivision (m) of Section 1351 of the Civil Code) conveys the exclusive right to occupancy of all or part of the corporate property, unless:

(A) the cooperative was financed under one mortgage which was insured under ~~S~~sections 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or was financed or assisted pursuant to ~~S~~sections 514, 515, or 516 of the Housing Act of 1949 or ~~S~~section 202 of the Housing Act of 1959, or was financed by a direct loan from the California Housing Finance Agency, and

(B) . . . (unchanged), and

(C) . . . (unchanged).

(4) Proportional Interest Transfers. Transfers of stock, partnership interests, limited liability company interests, or any other interests in legal entities between legal entities or by an individual to a legal entity (or vice versa) which result solely in a change in the method of holding title and in which proportional ownership interests of the transferors and transferees, in each and every piece of property represented by the interests transferred, remain the same after the transfer, do not constitute changes in ownership, as provided in subdivision (b)(2) of this rule and Revenue and Taxation Code ~~s~~Section 62, subdivision (a)(2) ~~of the Revenue and Taxation Code~~. This provision shall not apply to a statutory conversion or statutory merger of a partnership into a limited liability company or other partnership (or a limited liability company into a partnership) when the law of the jurisdiction of the converted or surviving entity provides that such entity remains the same entity or succeeds to the assets of the converting or disappearing entity without other act or transfer and the partners or members of the converting or disappearing entity maintain the same ownership interest in profits and capital of the converted or surviving entity that they held in the converting or disappearing entity.

Examples of Excluded Proportional Interest Transfers:

Example 9: General Partnership (GP), which owns Whiteacre and in which A and B hold equal partnership interests, converts to Limited Partnership (LP) under the Revised Uniform Partnership Act of 1994 (California Corporations Code section 16100 et seq.). As a result of the conversion, A and B each hold 50 percent of the LP interests in capital and profits. No change in ownership of Whiteacre upon the conversion, because, under ~~S~~section 16909 of the Corporations Code, there is no transfer of Whiteacre. Revenue and Taxation Code ~~S~~Section 62, subdivision (a)(2) ~~of the Revenue and Taxation Code~~ does not apply. However, if A and B were “original coowners” in GP, they remain “original coowners” in LP.

Example 10: Following the conversion in Example 9, A and B each transfer 30 percent of their capital and profits interests in LP to Limited Liability Company (LLC), which is owned equally by A and B. Each retain an equal 20 percent interest in LP. No change in ownership of Whiteacre pursuant to Revenue and Taxation Code ~~S~~Section 62, subdivision (a)(2) because A and B own 100 percent of both LP and LLC and their respective proportional interests remain the same after the transfer. Neither Revenue and Taxation Code section 64, subdivision (c) nor ~~section 64~~subdivision (d) ~~of the Revenue and Taxation Code~~ applies to this transfer, although A and B become “original coowners” with respect to their interests in LLC.

Example 11: A limited partnership (LP), which owns Blackacre and in which C and D hold equal partnership interests, changes its form to a limited liability company (LLC), in which C

and D hold equal membership interests, by statutory merger under the California Revised Limited Partnership Act (California Corporations Code section 15611 et seq.) and the Beverly-Killea Limited Liability Company Act (California Corporations Code section 17000 et seq.). No change in ownership of Blackacre upon the change in form because under section 17554 of the ~~California Corporations Code~~, there is not a transfer of property from LP to LLC. Revenue and Taxation Code Section 62, subdivision (a)(2) ~~of the Revenue and Taxation Code~~ does not apply. However, if C and D were “original coowners” in LP, they remain “original coowners” in LLC.

(e) Partnerships.

(1) Transfers of Real Property by Partnerships. General Rule. Except as provided by subdivision (b)(2) of this rule where the proportional ownership interests remain the same, when real property is contributed to a partnership or is acquired, by purchase or otherwise, by the partnership there is a change in ownership of such real property, regardless of whether the title to the property is held in the name of the partnership or in the name of the partners with or without reference to the partnership. Except as provided by subdivision (b)(2) of this rule where the proportional ownership interests remain the same, the transfer of any interest in real property by a partnership to a partner or any other person or entity constitutes a change in ownership.

(2) Except as provided in subdivision (d)(1)(B) and (d)(2) of this rule, the addition or deletion of partners in a continuing partnership does not constitute a change in ownership of partnership property.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 60, 61, 62, 63, 64 and 67, Revenue and Taxation Code; Sections 16909 and 17554, Corporations Code; and Section 1351, Civil Code.

Rule 462.220. Change in Ownership – Interspousal and Registered Domestic Partner Transfers.

Notwithstanding any other provision of Rules 460 through 471, a change in ownership shall not include any interspousal transfer, pursuant to Revenue and Taxation Code section 63, or any transfer between registered domestic partners, pursuant to Revenue and Taxation Code section 62, subdivision (p), including, but not limited to:

(a) . . . (unchanged),

(b) Transfers of ownership interests in legal entities resulting in one spouse or registered domestic partner obtaining control as defined in Revenue and Taxation Code Section 64, subdivision (c) ~~of the Revenue and Taxation Code~~,

Example 1: . . . (unchanged).

(c) Transfers of ownership interests in legal entities by “original ~~coowners~~ co-owners” which would otherwise be cumulated or counted for purposes of Revenue and Taxation Code Section 64, subdivision (d) ~~of the Revenue and Taxation Code~~,

Example 2: Spouses H and W are “original ~~co-owners~~ co-owners” of a partnership; each originally owned a 50 percent partnership interest. They have previously each transferred a 10 percent interest to X and to Y, leaving H and W each with a 30 percent partnership interest. W transfers a 15 percent interest to H. Although cumulatively more than 50 percent has been transferred, there is no change in ownership.

(d) Transfers to a trustee for the beneficial use of a spouse or registered domestic partner, or the surviving spouse or registered domestic partner of a deceased transferor, or by a trustee of such a trust to the spouse or registered domestic partner of the trustor,

(e) Transfers which take effect upon the death of a spouse or registered domestic partner,

Example 3: H and W each own a 30 percent interest in General Partnership (GP). H and W transfer their respective partnership interests to the HW Revocable Trust. No change in ownership. Trust provides that upon the death of the first spouse: the assets of the deceased spouse, including partnership interests in GP, shall be distributed to “A Trust,”; and the assets of the surviving spouse, including partnership interests in GP, shall be distributed to “B Trust.” Surviving spouse is the sole present beneficiary of both A Trust and B Trust. No change in ownership upon the death of the first spouse.

(f) Transfers to a spouse or registered domestic partner or former spouse or registered domestic partner in connection with a property settlement agreement, including post-dissolution amendment thereto, or decree of dissolution of a marriage or registered domestic partnership, or legal separation,

(g) The creation, transfer, or termination, solely between spouses or registered domestic partners, of any co-owner’s interest, or

(h) The distribution of property of a corporation, partnership, or other legal entity to a spouse or registered domestic partner or former spouse or registered domestic partner having an ownership interest in the legal entity, in exchange for the interest of such spouse in the legal entity in connection with a property settlement agreement, or decree of dissolution of a marriage or registered domestic partnership, or legal separation.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 60, 61, 62, 63, 64, 65, 65.1 and 67, Revenue and Taxation Code.

Rule 462.240. The Following Transfers Do Not Constitute a Change in Ownership.

The following transfers do not constitute a change in ownership:

(a) . . . (unchanged),

(1) . . . (unchanged).

(2) . . . (unchanged).

(b) . . . (unchanged).

(c) . . . (unchanged).

(d) Any contribution of real property to an employee benefit plan, any acquisition by an employee benefit plan of the stock of the employer corporation pursuant to which the employee benefit plan obtains direct or indirect ownership or control of more than 50 percent of the voting stock in the employer corporation, or the creation, vesting, transfer, distribution, or termination of a participant's or beneficiary's interest in such a plan. The terms used herein shall have the meaning ascribed to them by the Employee Retirement Income Security Act of 1974, which is codified as United States Code annotated, Title 29, Section 1002. (The term "any contribution" as used in Revenue and Taxation Code Section 66, subdivision (b) ~~of the Revenue and Taxation Code~~ and this rule ~~section~~ means only those contributions of real property made to an employee benefit plan by an employer, a group of employees, or both, without any consideration.)

(e) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Revenue and Taxation Code Section 23701h ~~of the Revenue and Taxation Code~~ holding title for the benefit of any of the aforementioned corporations, or any combination thereof (including any transfer from one such entity to the same type of entity), provided that both the transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(f) . . . (unchanged).

Example 1: . . . (unchanged).

(g) . . . (unchanged).

(h) Any transfer of property to a disabled child or ward, whether minor or adult, or to a trust for the sole benefit of such person, upon the death of a parent or guardian pursuant to Revenue and Taxation Code Section 62, subdivision (n) ~~of the Revenue and Taxation Code~~.

(i) Any transfer, on or after January 1, 1985, of a mobilehome park or of rental spaces in a mobilehome park pursuant to Revenue and Taxation Code Section 62.1 ~~of the Revenue and Taxation Code~~.

(j) Any transfer of a mobilehome park or of rental spaces in a mobilehome park pursuant to Revenue and Taxation Code Section 62.2 ~~of the Revenue and Taxation Code~~.

(k) Any transfer of a floating home marina pursuant to Revenue and Taxation Code section 62.5. ~~Any transfer of separate property inherited by a surviving domestic partner, as defined in subdivision (b) of section 37 of the Probate Code, by intestate succession upon the death of a registered domestic partner.~~

(l) Any transfer of real property between registered domestic partners, pursuant to Revenue and Taxation Code section 62, subdivision (p).

Note: Authority cited: Section 15606, Government Code. Reference: Sections 60, 61, 62, 62.1, 62.2, 62.5, 64, 66 and 67, Revenue and Taxation Code; and Sections 37, 6401 and 6402, Probate Code.